

REMARKS/ARGUMENTS

The present Amendment is responsive to the non-final Office Action mailed October 30, 2008 in the above-identified application.

Claims 1-5, 17-25, 27-33 and 38 are canceled without prejudice or disclaimer. Further, new claims 39-41 are added so as more fully to claim patentable aspects of Applicant's invention. These new claims are fully supported by Applicant's disclosure, see, for example, claims 1 and 6 with respect to new claim 39, claims 6 and 7 with respect to claim 40, and claims 1, 23 and 26 with respect to claim 41. Therefore, claims 6-16, 26, 34-37 and 39-42 are the claims currently pending in the present application. Claims 10 and 15 are amended to make them independent claims. Further, claims 6, 10, 11, 15, 26, 34 and 36 are amended to conform them more closely to U.S. patent practice style. Finally, claim 36 is amended to make it depend from a claim still pending in the application.

Rejection of Claims 1, 2, 10, 11, 15, 16, 23-25 and 38 under 35 U.S.C. § 103

Claims 1, 2, 10, 11, 15, 16, 23-25 and 38 are rejected under 35 U.S.C. § 103 as being obvious from Sasaki, U.S. Patent Application Publication No. 2002/0055758. Reconsideration of this rejection is respectfully requested.

Claims 1, 2, 23-25 and 38 are canceled without prejudice or disclaimer. Therefore, the rejection is moot as to these claims.

Claim 10 requires a surgical instrument including an insertion section and a support arranged on the same axis, and that an end surface in an axial direction of the connecting rod is inclined in an axial direction of the insertion section and the support.

Sasaki discloses a surgical instrument with a treatment section that is openable/closeable and rotatable from side to side and up and down using driving rods. However, Sasaki Fig. 3A does not disclose or suggest that the insertion section and the support are arranged on the same axis, as required by claim 10.

Sasaki Fig. 3B illustrates the first coupling member 16 in an inclined movement when the treatment section 3 rotates. However, Sasaki discloses that this inclined movement occurs only when the treatment section 3 rotates. Sasaki, and in particular, the arrangement Fig. 3A of Sasaki, does not disclose or suggest that the first coupling member 16 is inclined in an axial direction of an insertion section. Accordingly, Sasaki does not disclose or suggest the recitations of claim 10.

Claim 15 requires a surgical instrument including a pair of jaws having treatment section opening/closing mechanisms which are opened oppositely to each other in the axial direction of the support.

Sasaki discloses a treatment section 3 that works as follows: When first handle 37 is opened relative to second handle 39, first driving rod 5 advances ahead of the second and third driving rods 6 and 7, and first jaw 12 opens relative to second jaw 14. That is, Sasaki discloses that one jaw of treatment section 3 will open asymmetrically.

Sasaki does not disclose or suggest that a treatment section uses first and second driving rods with opening/closing mechanisms opened oppositely to each other in the axial direction of the support, as required by claim 15. As discussed, Sasaki discloses that the first driving rod 5 advances ahead of the second and third driving rods 6 and 7 when the first jaw opens relative to the second jaw 14 and that there is an asymmetrical opening of the jaws. Accordingly, Sasaki does not disclose or suggest the recitations of claim 15.

Claim 11 depends from claim 10. Further, claim 16 depends from claim 15. Therefore, claims 11 and 16 are patentably distinguishable over the cited art for at least the same reasons as their respective base claims.

Rejection of Claims 3-5, 17-22 and 27-32 under 35 U.S.C. § 103

Claims 3-5, 17-22 and 27-32 are rejected under 35 U.S.C. § 103 as being obvious from Sasaki in view of Klieman et al., U.S. Patent No. 5,827,323. Reconsideration of this rejection is respectfully requested.

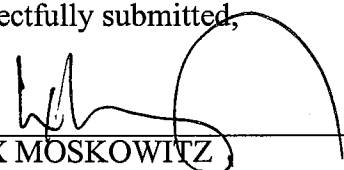
Claims 3-5, 17-22 and 27-32 are canceled without prejudice or disclaimer. Therefore, the rejection is moot.

In view of the forgoing discussion, withdrawal of the rejections and allowance of the claims of the application are respectfully requested.

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